

REMARKS

Applicants amended claims 1-2, 4, 10, and 12-14. Claims 1-2, 4, 10, and 12-14 are presented for examination.

The Examiner rejected claims 1-2, 4, 10, and 12-14 under 35 U.S.C. § 112, second paragraph as being indefinite. Applicants amended the claims to obviate this rejection, so this rejection should be withdrawn.

The Examiner rejected claims 1-2, 4, 10, and 12-14 under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 5,837,275 ("Burrell"). As amended, claims 1-2, 4, 10, and 12-14 cover articles in the form of a pill, a capsule, a lozenge or a suppository. Burrell does not disclose such articles. Therefore, Applicants request that the rejection be withdrawn.

The Examiner rejected claims 1-2, 4, 10, and 12-14 under 35 U.S.C. § 103(a) as being unpatentable over Burrell in view of U.S. Patent No. 6,224,779 ("Spector"), U.S. Patent No. 4,980,172 ("Fey"), or HCAPLUS abstract 1995:331180 ("the HCAPLUS abstract"). But, none of these references, alone or in combination, discloses or suggests articles in the form of a pill, a capsule, a lozenge, or a suppository, as required by claims 1-2, 4, 10, and 12-14.

Burrell does not disclose or suggest such articles. Instead, Burrell generally discloses anti-microbial coatings and anti-microbial powders. (See, e.g., Burrell, Abstract.) While Burrell discloses broad applications of his material, Burrell lists in the same paragraph applications such as semiconductor or ceramic materials, or applications in sensors, switches, fuses, electrodes, and batteries, all of which are completely unrelated to the subject matter covered by the claims. (See, e.g., *id.* col. 3., line 66 – col. 4, line 9.) Burrell also lists medical devices formed from, incorporating, carrying or coated with the anti-microbial coating or powders such as catheters, implants, tracheal tubes, dressings, sterile packaging, consumer healthcare products, laboratory equipments, etc., but these applications are still unrelated to the subject matter covered by the claims. (See, e.g., *id.* col. 8, line 60 – col. 9, line 14.) Given the breadth of applications disclosed in Burrell, the fact that Burrell does not disclose pills, capsules, lozenges, or suppositories provides strong evidence that, upon reading Burrell, one skilled in the art would not have been motivated to modify Burrell to provide pills, capsules, lozenges, or suppositories.

One skilled in the art would not have even considered Spector. Spector is directed to a pill, a pellet, or a tablet for inhibiting the growth of algae in swimming pools, (see, e.g., Spector, col. 3, lines 34-43), which is very different from the subject matter disclosed in Burrell. For at least the same reason, one skilled in the art would not have been motivated to combine Burrell and Spector to provide the articles covered by claims 1-2, 4, 10, and 12-14.

One skilled in the art also would not have considered Fey. Fey is directed to an anti-smoking oral preparation including a silver-compound as an anti-smoking agent, (see, e.g., Fey, abstract), which is also very different from the subject matter disclosed in Burrell. For at least the same reason, one skilled in the art would not have been motivated to combine Burrell and Fey to provide the articles covered by claims 1-2, 4, 10, and 12-14.

In addition, one skilled in the art also would not have considered the HCAPLUS abstract. The HCAPLUS abstract is directed to treating AIDS, which is very different from the subject matter disclosed in Burrell. For at least the same reason, one skilled in the art would not have been motivated to combine Burrell and the HCAPLUS abstract to provide the articles covered by claims 1-2, 4, 10, and 12-14.

In summary, none of Burrell, Spector, Fey, or the HCAPLUS abstract, alone or in combination, discloses the articles covered by claims 1-2, 4, 10 and 12-14. There is no suggestion to combine these references to provide such articles, and, even if the references were combined, the result would not be the articles covered by these claims. Accordingly, Applicants request reconsideration and withdrawal of the rejection of claims 1-2, 4, 10, and 12-14 under 35 U.S.C. § 103(a).

Applicants believe the application in condition for allowance, which action is requested.

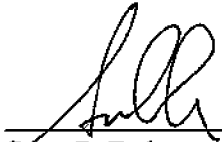
Applicant : Gillis et al.
Serial No. : 10/690,774
Filed : October 22, 2003
Page : 6 of 6

Attorney's Docket No.: 14072-035001 / W 616

Please apply any charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: 3/27/07



Sean P. Daley
Reg. No. 40,978

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110
Telephone: (617) 542-5070
Facsimile: (617) 542-8906

21585360.doc